

REMARKS

Following entrance of the present Amendment, claims 1, 5-8, 15, 19 and 20 have been amended, new claims 21-27 have been added, and claims 4, 9-14 and 16-18 have been canceled without prejudice. Hence claims 1-3, 5-8, 15 and 19-27 are presented for consideration.

In the Office Action, the Examiner rejected claims 1-20 under the judicially created doctrine of obviousness-type double patenting over U.S. Patent No. 6,079,140. The Examiner also rejected claims 1-3, 9-11 and 15-18 as anticipated by U.S. Patent No. 6,138,396 to Capps and/or 4,535,560 to O'Neil. The Examiner indicated that claims 4-8, 12-14 and 19-20 were objected to as being dependent upon a rejected base claim but would be allowable if rewritten and in independent form including all limitations of the base claim and any intervening claims and if the double patenting rejection were overcome.

Applicant has included a Terminal Disclaimer by the inventor and owner of U.S. Patent No. 6,079,140 and the inventor of the present application to obviate the double patenting rejection. It is respectfully requested that the double patenting rejection hereto be withdrawn.

Applicant has amended claim 1 by incorporating the limitations of claim 4 and all intervening claims therein. Thus, since claim 4 was indicated allowable, it is believed that claim 1 is allowable. Since claims 2 and 3 depend from claim 1 which now includes the allowable subject matter of claim 4, claims 2 and 3 are believed allowable as well.

Claim 5 has been amended to place it in independent format and to incorporate all limitations of the originally rejected base claim 1 and any intervening claims. It is therefore believed that claim 5 includes allowable subject matter and should be allowable. Since claim 6 depends from claim 5, it is believed allowable as well.

Claim 7 has been amended into independent format and to include all of the limitations of its base claim and any intervening claim. It is therefore believed that claim 7 is allowable. Since claim 8 depends from claim 7 which includes allowable subject material, it is believed claim 8 is allowable as well.

Claims 9-14 have been cancelled without prejudice.

Claim 15 has been amended to include the limitations of claims 16, 17 and 18 as well as the additional limitation that the motor moves the frame downwardly in response to remote actuation. Such is believed sufficient to distinguish over the cited art. Thus, neither U.S. Patent No. 6,138,396 to Capps nor U.S. Patent No. 4,535,560 to O'Neil shows the invention as defined and claimed by Applicant. For example, neither the Capps reference nor the O'Neil reference show a motor that forces the decoys downwardly to simulate feeding activity. Applicant's invention provides a different manner of attracting game that does not work similarly to the prior art. As has been specifically claimed, the action of forcing the decoys downwardly is quite novel. Persons of ordinary skill in the art will appreciate that this difference is significant. Moreover, these elements are specifically recited in the pending claims.

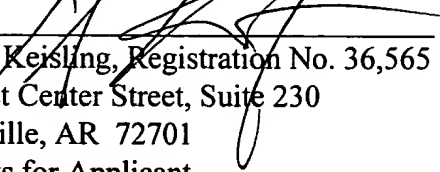
In light of the above, Applicant respectfully believes the present application to be in condition for allowance. An early and favorable action to that effect is earnestly solicited.

Should there be any matter of form or language which stands in the way of examination of the present application, the undersigned hereby respectfully requests a telephone conference to resolve such issues.

Please charge any deficiency in fees or credit any overpayment in fees associated with the prosecution of this application to Deposit Account No. 08-1500.

Respectfully submitted,

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